

2021 Legislative Update: Week 2

Overview

The Legislature returned to Montgomery for a second consecutive three-day work week, meaning the 2021 Regular Session is already one-fifth complete. Next week, legislators will take a planned weeklong hiatus, giving State House staff the ability to sanitize the building and legislative leadership an opportunity to reassess their COVID protocols.

Though an incredibly busy few days, particularly for legislative committees, the most talked-about items of Week 2 can be summarized into two points. First, three major pro-business bills made it to Governor Ivey's desk in near-record speed. Second, the most comprehensive gaming legislation in a decade was introduced this week, and unlike many of its predecessors, it has a better-than-decent chance of passing.

Quick Work on Pro-Business Priorities

Five days: that's the minimum amount of time it takes for a bill to become law. Passing a bill in such a short time frame is hard to achieve even on legislation dealing with the most mundane and non-controversial subjects. But even then, it's rarely done at the beginning of a legislative session, when representatives and senators are slow to get in the groove of legislating.

But a five-day passage is exactly what happened to House Bills 170 and 192, two major tax-related bills. And a third important pro-business bill, Senate Bill 30, only needed one extra day before being sent to the Governor's desk.

House Bill 170 by Rep. Danny Garrett of Trussville makes clear that tax credits and stimulus payments provided by the federal CARES Act are excluded from state income taxation. The legislation also includes several other important tax provisions related to business income apportionment, business expense deductibility, and pass-through taxation. It passed the House unanimously on the third legislative day.

House Bill 190 by Rep. Bill Poole renews and expands three important economic development incentive programs used by the state to lure companies to Alabama.

- Credits available under the Alabama Jobs Act, which expired in 2020, would be extended to 2023, with the amount of credits increasing from \$300 million to \$325 million in 2021 and \$350 million in 2022.
- Credits available under the Growing Alabama Act, which also expired in 2020, would be extended to 2023, with the amount of credits increasing from \$10 million to \$20 million annually.
- Credits available under the Alabama Port Credit program would be expanded to include more creditable opportunities for automotive companies.

These two bills flew through Senate committees on Tuesday and out of the Senate itself on Wednesday afternoon.

On the House side, Senate Bill 30 by Sen. Arthur Orr of Decatur may turn out to be one of the most important pieces of legislation the business community has supported in years. That's the legislation that provides businesses, healthcare providers, churches, and other entities with civil immunity from COVID-related lawsuits, so long as the covered entities followed proper federal and state health protocols. This agreed-upon legislation was introduced late in the COVID-shortened 2020 session, and much of the language in the bill was included in an Executive Order issued last May. The legislation was at the top of everyone's "must pass" list and was the first bill to pass the Senate this session.

To illustrate the bipartisan support for these three bills, consider this simple statistic: the combined vote count was 357-6.

While Alabama is certainly a conservative state politically dominated by the Republican Party, Democrats are keenly aware of what to do to make their voices heard in the halls of power in Montgomery. The fact that these bills passed in such a quick, overwhelmingly bipartisan fashion illustrates just how much effort went into lobbying for these bills prior to the session's first day. Credit also goes to the legislators who helped manage the bills this week on the House and Senate floors: Rep. David Faulkner of Mountain Brook for Senate Bill 30, Sen. Dan Roberts of Mountain Brook for House Bill 170, and Senate President Pro Tempore Greg Reed (R-Jasper) for House Bill 192.

Gambling Bill Introduced

Senator Del Marsh of Anniston, one of the most powerful members of the upper chamber, finally introduced his comprehensive gaming legislation, Senate Bill 214, on Tuesday. The bill quickly passed out of the Tourism Committee, which Marsh chairs, the very next day, and made its way to the Senate floor on Thursday. True to his word, Marsh carried the bill over after ample debate in an effort to give Senators a chance to use the off week to discuss the bill with constituents. To be sure, few people other than Senator Marsh could pull off such a feat. And the same leadership style that led to quick movement on Senate Bill 214 also went into crafting the bill itself, as this bill seemingly checks nearly every box imaginable.

In summary, the gaming proposal:

- Establishes the Alabama Education Lottery to generate revenue for scholarships, with any unclaimed lottery prize money to be used for an agricultural grant program;
- Limits gaming to five designated pre-existing "covered locations": the Birmingham Race Course, the Mobile Greyhound Racing facility, Greenetrack, Victoryland, and an additional site in Jackson or DeKalb Counties;
- Expands gaming operations at "covered locations" to Class III casino games and sports wagering;
- Establishes a Gaming Trust Fund to receive money from gaming license fees and a tax on net gaming revenue, with 5 percent of the total going to cities and counties where facilities are located, 20 percent of the total proceeds going to a Gaming Trust Fund and the remainder going to the State General Fund for IT infrastructure, rural health care services, and mental health services;

- Establishes the Alabama Gaming Commission regulate all gaming activity within the state, including the lottery;
- Prohibits political contributions from a gaming facility or an officer, director, or owner of a facility; and
- Authorizes the Governor to negotiate a compact with the Poarch Band of Creek Indians.

The provisions of the legislation would not become effective unless Alabama voters ratified a proposed constitutional amendment. Note that the Governor cannot veto legislation proposing a constitutional amendment, and a proposed constitutional amendment can only be put on the ballot if it has been approved by three-fifths of the members elected to each chamber.

Statistics

Through six legislative days, legislators have introduced 636 bills - 413 in the House and 233 in the Senate - and 81 resolutions. Of those, 84 bills and 56 resolutions have passed out of their house of origin, though as of this writing none have been signed into law. After taking a planned one-week break, the House and Senate return to Montgomery for the seventh legislative day on Tuesday, February 23.

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